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Application Number

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First Named Inventor

Etienne DUNAS

Art Unit

2617

Examiner

Huy C HO

23373

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February 2, 2009

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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q83961

Etienne DUNAS, et al.

Appln. No.: 10/510,685

Group Art Unit: 2617

Confirmation No.: 4008

Examiner: Huy C HO

Filed: February 16, 2005

For: SYSTEM AND METHOD FOR REAL-TIME INTERCONNECTION OF ELEMENTS OF A WIDE AREA MONITORING, MEASUREMENT OR DATA COLLECTION SYSTEM THROUGH A DIRECT DIGITAL SATELLITE BROADCASTING MULTIPLEXING SYSTEM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated October 1, 2008, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Claims 1-25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over USP 5,101,267 to Morales-Garza in view of USP 6,498,922 to Lazaris-Brunner et al. With respect to independent claims 1 and 14, the Examiner asserted that Morales teaches all the features of the claimed system except the function of an adapter for extracting a digital channel. Lazaris is cited as teaching such an adapter and that it would have been obvious to combine the references. See the Non-Final Office Action of April 17, 2008 ("NFOA"), p. 6-7 and the Final Office Action of October 1, 2008 ("FOA"), p. 4-5.

Applicant requests review of the prior art rejection because the Examiner omitted one or more essential elements needed for a *prima facie* rejection and respectfully requests review of the finality of the Office Action because the Examiner rejected the claims on grounds not

articulated in any of the previous Actions. See OG Notice 12 July 2005, #4.

(A) Applicant has pointed out that Morales does not teach “respective” computation centers as claimed and that Lazaris does not make up the deficiency to arrive at the present claims. See Applicant’s Response of June 30, 2008 (“111 Resp”), p. 4 and 6 and Applicant’s Response of December 31, 2008 (“116 Resp”), p. 3 and 6. In subsequent Actions, however, the Examiner’s interpretation of the claim language completely removes any meaning from the narrowing word “respective”, rendering it of no effect. Applicant is unaware of any legal basis for the Examiner’s position. Ignoring express claim limitations certainly may simplify the examination process, but Applicant is entitled to an interpretation of the claim language that is in accordance with the law. The Examiner’s assertions as to whether the evidence shows a prior teaching of computation centers in general have no reasonable relevance to whether there is in evidence any teaching of the claimed “respective” computation centers. In both the Examiner’s response on p. 2 of the FOA and the Advisory Action of January 13, 2009 (“AA”), the Examiner asserted that Morales teaches monitoring stations for providing data to computation centers while omitting any evidence related to “respective” computation centers. That is, the Examiner disregarded this feature and provided no substantive reply to Applicant’s arguments regarding the claimed respective computation centers.

Claim 1 recites a “system...for providing data, to respective communication centers,” “a digital channel corresponding to a respective one of said computation centers,” “said respective computation center (3) is connected to a down-link adapter,” and a “digital channel corresponding only to the said respective computation center.” Claim 14 recites further aspects of the claimed respective computation centers. The claimed feature is an essential element.

The Examiner has taken the position that Morales teaches computation centers at col. 3, ln. 21-60. See NFOA, p. 5-6; FOA, p. 4-5; and AA, p.2. The Examiner specified in the AA that the “response data centers” of Morales are taken to meet the claimed computation centers.

Morales, however, does not teach response data “centers” as asserted; Morales teaches a single audience response data center 2 (Fig. 2; col. 3, ln. 27). **That is to say, the data center is**

irrespective of the other claimed components in the Morales approach. Applicant submits that the local area repeater stations of Morales do not communicate with “respective computation centers.” See Fig. 1. Instead, Morales teaches that “the repeater stations then communicate by intermediate satellite transmission channels to *a central data center*” (col. 2, ln. 15-16, emphasis added). The nature of the invention of Morales is that a “network of local area audience response systems is coupled together at a *central audience response processing station* by means of a satellite communication system” (Abstract, emphasis added).

For computations centers to be “respective” within the scope of the claims, they must pertain to each of the plurality of claimed monitoring stations. Morales plainly does not teach computations centers “respective” to a plurality of monitoring stations. By omitting this essential element, the Examiner has not shown *prima facie* obviousness.

Second, Applicant submitted that Morales does not teach the down-link adapter as claimed and that Lazaris does not make up the deficiency to arrive at the present claims. See 116 Resp, p. 4 and 7. In the AA, however, the Examiner characterized Applicant’s position to exclude the feature of the claimed down-link adapter. The Examiner’s analysis entirely omits discussion of a down-link adapter. That is, the Examiner disregarded this feature and provided no substantive reply to Applicant’s arguments regarding the claimed down-link adapter.

Claim 1 recites a that a “respective communication center (3) is connected to a down-link adapter” and that “said down-link adapter is adapted for extracting.” Claim 14 recites further aspects of the claimed down-link adapter. The claimed feature is an essential element.

The Examiner recognized that Morales does not teach the function of a down-link adapter. See NFOA, p. 6-7 and FOA, p. 4-5. Lazaris is cited as teaching such a function. Lazaris, however, does not teach a down-link adapter that is “adapted for extracting, from said down-link transmission, said digital channel corresponding only to the said respective computation center” as recited in claim 1. Rather, Lazaris teaches channels that do not correspond only to a particular computation center. A feature of the invention of Lazaris is that “it provides the ability to map any uplink channel from either a global hub station or from a

regional programming station to any downlink beam, and provides on-the-fly re-mapping of the signals” (col. 5, ln. 3-6). That is, Lazaris teaches away from the presently claimed feature.

Applicant further notes that the Examiner’s analysis has extracted the feature of an “adapter” from the language of claims 1 and 14. See NFOA, p. 5, last paragraph, p. 6, last paragraph, p. 7, first paragraph and FOA, p. 4, fourth full paragraph, p. 5, third and fourth full paragraphs. Such an extraction alters the meaning of the language (*e.g.*, “said down-link adapted for” instead of “said down-link adapter is adapted for”; “being connected to a down-link” instead of “being connected to a downlink adapter”; and “by said down-link” instead of “by said down-link adapter”). The teaching of Lazaris does not remedy the Examiner’s alteration. Applicant submits that by so altering the language, an essential element has been omitted, and the Examiner has not shown *prima facie* obviousness.

(B) Applicant pointed out that Morales does not teach “multiplexing” up-link data and “multiplexed data” as claimed and that Lazaris does not compensate for this deficiency. See 111 Resp, p. 4-6 and 116 Resp, p. 4, 6-7. In the AA, the Examiner recognized indeed that “Morales does not show multiplexing data in uplinks or downlinks” but for the first time relied on Lazaris as teaching a satellite system having processors for receiving frequency division multiplexed (FDM) signals in the uplinks then combining the FDM signals into a combined time division multiplexed (TDM) signal corresponding to the claimed features. Applicant submits that rejecting the claims on such new grounds, never previously articulated, constitute a new prior art rejection, and that the finality of the outstanding Office Action should be withdrawn.

Previously, the Examiner took the position that Morales teaches the claimed multiplexing and multiplexing data at col. 3, ln. 21-45 and col. 4 ln. 28-40. See NFOA, p. 5-6 and FOA, p. 4-5. Morales, however, simply teaches that satellites may have equipment that “may distinguish between the transmissions from various local repeater stations to prevent interference or to permit simultaneous transmission on separate frequency bands” (col. 4, ln. 30-33).

Applicant submits that the simultaneous transmission on *separate frequency bands* taught by Morales does not encompass the presently claimed multiplexing. Applicant discloses at

PRE-APPEAL BRIEF REQUEST FOR REVIEW
Application 10/510,685
Attorney docket Q83961

[0045] of the published application that the “satellite (2) comprises an on-board processor (21) of any type known in the related art, for receiving said up-link data, multiplexing said data into a bit stream and broadcasting the multiplexed data bit stream directly to a plurality of computation units (C).”

In view of the above, reconsideration and withdrawal of the rejection are respectfully requested.

Respectfully submitted,

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